

Arkansas State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services

Board Meeting Minutes

Tuesday, March 10, 2020

1 Commerce Way
Diamond Mine Hearing Room
Little Rock, AR
9:00 a.m. – 11:24 a.m.

Chairman Bill Booker called the meeting to order. Member(s) present: Billy Curl, Professional Member, Chuck Dearman, Professional Member, Rausch Hodges, Professional Member, Commissioner, Allen Kerr, Professional Member, Josephine Perry, Senior Citizens Member, James Bruce Smithson, Professional Member, and Steve Whitwell, Professional Member and Vice-Chair. Member(s) absent: Stephanie Neipling, Consumer Member.

Staff present, Robert Akers, Director, Funeral Services Division, Darriel Ezell, Inspector/Investigator, Amy Goode, Executive Secretary, Lorin Hillery, Auditor, Amelia Vestal, Senior Securities Examiner, and Amanda Gibson, Arkansas Insurance Department, Associate Counsel.

1. **Call to Order** – Introduction of Board members and staff.
2. **Approval of the Agenda**

Chairman Booker inquired if there was any desire to change or deviate from the proposed agenda. Hearing none, the Board preceded with the agenda as prepared by staff.

3. **Administrative**

- a. **Approval of the November 19, 2019, regular meeting minutes;**

Motion made by Dearman to approve the minutes of the November 19, 2019, regular meeting, seconded by Hodge, all in favor. Motion carried.

- b. **Approval of the January 14, 2020, regular meeting minutes, and;**

Motion made by Dearman to approve the minutes of the January 14, 2020, regular meeting, seconded by Curl, all in favor. Motion carried.

- c. **Approval of the February 4, 2020, special meeting minutes.**

Motion made by Curl to approve the minutes of the November 19, 2019 regular meeting, seconded by Hodges, all in favor. Motion carried.

4. New Business

a. Funeral Directors and Embalmers – To consider applications for reinstatement [A.C.A. §17-29-306 Renewal]

- i. **Thomas McLemore – Board ID. No. 21135.** Mr. McLemore allowed his funeral director and embalmer’s license to lapse non-payment. [Rule IX. 4.](#) States that a licensed embalmer and or funeral director who fails to renew his/her license for a period of five (5) years, in addition to appearing before the Board and paying the required delinquent fees (\$920.00) is also required to take and pass the ARLRR exam. Mr. McLemore passed his background check and his pending Board approval.

Motion made by Whitwell to approve Thomas McLemore’s applications to reinstate, after passing LRR exam and paying delinquent fees, seconded by Curl, all in favor. Motion carried.

- ii. **James C. Black – Board ID. No. 20913.** Mr. Black allowed his funeral director and embalmer’s license to lapse for non-payment. [Rule IX. 4.](#) States that a licensed embalmer and or funeral director who fails to renew his/her license for a period of five (5) years, in addition to appearing before the Board and paying the required delinquent fees (\$920.00) is also required to take and pass the ARLRR exam. Mr. Black passed his background check and is pending Board approval.

Motion made by Whitwell to approve James C. Black’s applications to reinstate, after passing LRR exam and paying delinquent fees, seconded by Hodges, all in favor. Motion carried.

b. Embalmers & Funeral Directors – Establishments Seeking Approval [A.C.A. §17-29-304 Funeral Establishment – Requirements, §17-29-305 Examinations – Licenses, and §17-29-315 -Transporting human remains-Operating a transport service - Qualifications]

- i. **Simply Cremation Care. – Board ID No. 25239.** Requests a [Type A](#) establishment license and is located at 108 S. Fir Street, Searcy, Arkansas. Inspector Ezell inspected the Type A Transport establishment owned by Mark Sullivan and Sullivan Funeral Care, LLC on **Tuesday, February 25, 2020.** The manager of record will be Mark Sullivan, Board ID No. 22213 and Sullivan Funeral Care, LLC., Board ID No. 24375 in Kensett, Arkansas, is to be performing the embalming under the direction of Mark Sullivan, Board ID No. 22213. Ascension Crematory, Board ID No. 25041 in Kensett will perform cremations. All required documentation submitted is pending Board approval.

Motion made by Curl to approve the Type A establishment of Simply Cremation Care, seconded by Kerr, all in favor. Motion carried.

- ii. **First Call Transport, LLC. – Board ID No. 25240.** Requests a [Type D](#) establishment license and is located at 117 Foxwood, Hot Springs, Arkansas. Inspector Ezell inspected the Type D Transport establishment owned by Jimmy Crain and Wayne Walthall on **Wednesday, February 26, 2020**. Mr. Crain and Mr. Walthall are currently the only listed driver(s) with a valid Arkansas driver’s license, both have acceptable driving record(s) for the transport service. They both received their blood-borne pathogen training on February 24, 2020. All required documentation is pending Board approval.

Motion made by Whitwell to approve the Type D establishment of First Call Transport, seconded by Kerr, all in favor. Motion carried.

- iii. **T L C Mortuary Transport. – Board ID No. 25241.** Requests a [Type D](#) establishment license and is located at 10000 West Markham, Suite #2, Little Rock, Arkansas. Inspector Ezell inspected the Type D Transport establishment owned by F. M. Harbison Memorial Services, LLC. / Registered Agent Christopher D. Ross, Sr. on **Friday, March 6, 2020**. Mr. Ross is currently the only listed driver with a valid Arkansas driver’s license and acceptable driving record for the transport service. He received his blood-borne pathogen training on February 24, 2020. All required documentation is pending Board approval.

Motion made by Curl, to approve the Type D establishment of T L C Mortuary Transport, seconded by Kerr, all in favor. Motion carried.

c. Burial Associations – To consider the waiver request(s) of a burial associations semiannual report [A.C.A. §23-78-120 Semiannual Reports]

- i. **Brown Burial Association**
- ii. **Fowler Burial Association**
- iii. **Southeast Arkansas Burial Association**

Chad Hampton, Licensed Funeral Director/Manager of Fowler and Brown Funeral Homes is requesting on behalf of these associations, a waiver of the \$100 per association late penalty fee. The reports were received electronically on the February 19, 2020, which was one day late. The annual fees for each association and hardcopy of the reports was received, February 25, 2020.

Motion made by Kerr to waive the assessed late fees against the three (3) associations, seconded by Hodges, all in favor. Motion carried.

5. **Hearing – approximately 9:30 a.m.**

a. In the matter of: Weems Family Funeral Service, Board ID No. 20536 and Tim Weems, Board ID No. 21942, Respondents

Russ Galbraith, Chief Deputy Commissioner | Arkansas Insurance Department, served as Hearing Officer;

Amanda Gibson, Board Counsel, represented the Board;

Faith Grigsby, Court Reporter;

Respondent did not appear;

Darriel Ezell, Inspector/Investigator, Robert Akers, Director, and Amy Goode, Executive Secretary, witnesses for the Board.

Court Reporter swore in witnesses.

Hearing Officer, Russ Galbraith called the hearing on the record at 9:18 am and explained the purpose of the hearing. Mr. Galbraith noted that the Respondent did not appear. Mr. Galbraith explained the hearing would be conducted pursuant to the Arkansas Administrative Procedures Act. The strict rules of introducing evidence do not apply and will be given latitude in presenting testimony and evidence, to promote a fair hearing. This hearing is subject to the Arkansas Freedom of Information Act and therefore all parts of the hearing, including deliberations, are open to the public. The Board will base its decision solely on evidence presented today.

Mr. Bruce Smithson arrived at 9:45 a.m.

Factual Allegation 4 was amended striking “failed to give him a copy of the general price list”.

Board found factual allegations 1- 14 proven, with the amendment to allegation 4 above. Board also found charges 1-8 as follows:

C.1. – unproven

C.2. – C.8. – proven

Motion made by Curl to order the following:

1. The establishment license of Weems Family Funeral Service is revoked.
2. That Respondent Tim Weems’ funeral director’s license is revoked.
3. That Respondent Tim Weems’ embalmer’s license is revoked.
4. That a \$10,000 civil penalty be levied against Respondent Weems personally.
5. That the sign be removed from the building of the funeral home.
6. That Respondent cease all advertising, including removing the sign and disconnecting the phone number listed for the funeral home.

Seconded by Smithson, all in favor. Motion carried.

Record closed 10:48 a.m.

6. **Complaints**

a. Funeral Directors and Embalmers – To consider the complaint(s) on-file with the State Board [A.C.A. §23-61-1111 Duties of the State Insurance Department]

Ms. Gibson stated she had several embalmer and funeral director complaints to present to the board.

Case No. 19-27. Recommend hearing by board staff and counsel.

Motion made by Kerr, to set Case No. 19-27 for a hearing, seconded by Smithson, all in favor. Motion carried.

Case No. 19-09. Staff recommends sending a letter to the funeral home to correct the GPL.

Motion made by Whitwell, to accept staff's recommendation, seconded by Curl, all in favor. Motion carried.

Case No. 19-26. Recommend hearing by board staff and counsel.

Motion made by Curl, to set Case No. 19-26 for a hearing, seconded by Smithson, all in favor. Motion carried.

Case No 19-30. Staff recommends closing due to lack of violations.

Motion made by Hodges, to accept staff's recommendation to close, second by Smithson, Bill Booker recused, all in favor. Motion carried.

Case No 19-31. Staff recommends closing the complaint, but to send a letter to respondent for untimely filing of response.

Motion made by Smithson, to accept staff's recommendation, seconded by Dearman, all in favor. Motion carried.

Case No 19-34. Staff recommends closing due to Respondent has passed away.

Motion made by Dearman, to accept staff's recommendation to close, seconded by Hodges, all in favor. Motion carried.

Case No 20-06. Staff recommends closing due to lack of violations.

Motion made by Curl, to accept staff's recommendation to close, seconded by Hodges, all in favor. Motion carried.

Case No 20-07. Recommend hearing by board staff and counsel.

Motion made by Kerr, to set Case No. 20-07 for a hearing, seconded by Hodges, all in favor. Motion carried.

Case No 20-08. Recommend hearing by board staff and counsel.

Motion made by Kerr, to set Case No. 20-08 for a hearing, seconded by Dearman, all in favor. Motion carried.

7. **Legal Administrative Update**

Ms. Gibson informed the Board that we are still waiting on the Judge to rule on briefs or schedule oral arguments.

8. **Next Meeting Date(s)**

a. Monday, May 18, 2020 (1:00 p.m.) Rules Sub-Committee

b. Tuesday, May 19, 2020 (9:00 a.m.)

Steve Whitwell stated he would be absent May 19th.

9. **Comments and Announcements**

a. Williams Funeral Home – Arkadelphia, Arkansas - Update

Quarterly update provided for the Board on current status of the location after the fire last February and that they will be doing a groundbreaking ceremony to re-build on March 11, 2020.

Curl wanted to discuss a casket/display rule he had drafted. His recommendation is to change the rule to require three (3) full size caskets, or nine (9) quarter cuts, or twelve (12) 1/8 cuts, or a combination of both in conjunction with electronic and photo presentation.

Therefore, the initial funeral establishment can have three (3) full size caskets, or nine (9) quarter cuts, or twelve (12) 1/8 cuts, or a combination of these, in conjunction with electronic and photo presentation. Then a branch establishment, within forty (40) miles, without a display room available, may use electronic only.

The Board recognized Commissioner Kerr for his years of services and dedication to the Arkansas Insurance Department for the past 5 years.

10. **Adjournment**

Motion made by Smithson, to adjourn at 11:24 AM, seconded by Kerr, all in favor. Motion carried.